The Solicitors' Journal

VOL. LXXVI. **Saturday, July 30, 1932.** No. 31

Current Topics.

The Common Serjeant.

THE WHOLE legal profession, and many outside its ranks, have heard with sincere regret that advancing years have impelled Sir HENRY FIELDING DICKENS to intimate to the Lord Mayor his intention to retire in the near future from the office of Common Serjeant of the City of London. With his weight of years—for Sir HENRY has already passed what the Psalmist designated as the normal span of life—it is not surprising that he should seek relief from the arduous labours of the office, although it may be truly said that there has been no indication that his mental eye has been dimmed or that his natural force has been abated. His personality and the magic of the name he bears have contributed greatly to enhance the lustre of the post which, since 1917, he has filled with such distinction. The good wishes of all his friends, and he has hosts of them, will follow him into his retirement and they will wish for him many years of quiet enjoyment in the leisure that will be his. The office which he will vacate was at one time, although it is not now, compatible with practice at the Bar. DENMAN, afterwards Chief Justice of the Court of Queen's Bench, was Common Serjeant from 1822 till 1830, continuing to practise during these years. In his time the salary attached to the office was £1,000, with, in addition, certain fees on City business which varied from £150 to £400. Now, the salary is fixed at £3,000. Till the passing of the Local Government Act, 1888, the appointment of Common Serjeant was in the hands of the Court of Common Council, but by the provisions of that statute it is now in the gift of the Crown, although the City is left with the duty of paying the salary.

English and Scots Law.

IN HIS essay on "Nationality" in "Res Judicatæ," Mr. AUGUSTINE BIRRELL calls attention in his vivacious way to one essential point of difference between the law of England and that of Scotland. He points out that in England a promise made without a monetary or otherwise valuable consideration is in its legal aspect a thing of nought which may safely be disregarded. If an Englishman, he says, moved by the death of his father, says hastily to a maiden aunt who has made the last days of his progenitor easy, "I will give you fifty pounds a year," and then repents him of his promise, he is under no legal obligation to make it good. If he is a gentleman he will send her a fat goose at Michaelmas, and the matter drops as being but the babble of the sickroom. In Scotland, however, the maiden aunt, provided she can prove the promise, can secure her annuity and live merrily in Peebles for the rest of a voluptuous life. That, indeed, is an important difference between the two legal systems, but, of course, there are many more despite the assimilation that has been going on through statutes like the Sale of Goods and the Bill of Exchange Acts. In a valuable article in the current number of the *Scottish Law Review*, a Glasgow solicitor calls attention to several of these in a concise form, though not perhaps in so piquant a style as Mr. BIRRELL has done in the illustration to which we have referred. English practitioners will find the catalogue of the more important divergencies useful as well as interesting. We are reminded, for example, that in Scotland the floating charge is unknown, as is also the equitable mortgage. Again, in Scotland, if a person's property has been stolen there is no legal objection to the owner trying to make a bargain with the thief or an associate of his to get the property back and agree to ask no questions. To do this in England would amount to what is known as compounding a felony. Further, in the law as to testate and intestate succession there are marked differences. In Scotland a will is not revoked by the subsequent marriage of the testator, and the interests of wife and children are guarded in a way that is unknown in England. The peculiarities of the Scots marriage law need not be referred to, seeing that these have time out of mind been the stock-in-trade of writers of fiction.

Evidence of Previous Conduct.

CONDUCT ON previous occasions is not, as a rule, evidence against a defendant in either civil or criminal proceedings. "I do not see," said WILLES, J., in *Hollingham* v. *Head*, 4 C.B. (N.S.) 388, "how the fact that a man has once or more in his life acted in a particular way, makes it probable that he so acted on a given occasion." In *James* v. *Audigier* (76 SOL. J. 528), the Divisional Court delivered a reserved judgment on a point which Mr. Justice SWIFT characterised as of "great practical importance" as it "constantly arose in actions for damages for personal injuries sustained in street collisions." The occasion was an appeal from a county court, in which the plaintiff had succeeded in obtaining £150 damages for the negligent driving by the defendant of a motor bicycle, whereby it ran on to the pavement and struck the plaintiff. In cross-examination, counsel for the defendant asked the plaintiff whether he had at about the same time another accident in the same street, whether the results were fatal, and whether he told the jury at the inquest that exonerated him that he had had this accident. The answer to the first two questions was "yes," and to the third "no." The defendant on appeal contended that these questions ought not to have been asked, that they were irrelevant to the issues, and that they were unfair and prejudicial to the defendant. Mr. Justice SWIFT, in reading the judgment of the court, said

that it appeared to be quite plain that where a defendant was charged with negligence in a particular case it was not competent to ask him a question to obtain an answer which would show that he had been negligent on some other occasion or occasions. But questions testing his credibility as a witness or his skill or competence as a driver were not to be excluded merely because they showed that he had been involved in one or more accidents. The judge had power to exclude irrelevant or vexatious questions put in cross-examination (R.S.C., Ord. 36, r. 38, and County Court Rules, Ord. 22, r. 12), and the judge's decision was final. In the case under consideration the questions were directed towards the plaintiff's credibility and his general skill as a driver, and had a proper objection been taken at the trial the judge would have ruled the questions admissible. The appeal was therefore dismissed. It has been held that evidence of previous libels by a defendant or a plaintiff are admissible to prove malice in libel proceedings: *Praed* v. *Graham*, 24 Q.B.D. 53; and in criminal proceedings generally, evidence of previous conduct is admissible to prove intent, guilty knowledge, or a system: *R.* v. *Bond* [1906] 2 K.B. 389. Although some people intentionally err and others systematically err, there are yet others who never make the same mistake twice, and it is a wise principle of our jurisprudence which provides that a person shall not be condemned on account of his previous mistakes.

The Forensic Pharmacist.

The Pharmaceutical Society of Great Britain has been issuing new Examination Regulations. In future before any person can be allowed to carry on the business of a chemist, or dispense medicine, or sell poison, he will be required to pass an examination in "forensic pharmacy." The candidate will be required—

(*a*) To enumerate the poisons contained in the schedule to the Poisons and Pharmacy Act, 1908, viz.:—
Poisons within Pt. I of the schedule;
Poisons within Pt. II of the schedule;

(*b*) To describe minutely the conditions required upon the keeping, selling, and dispensing of poisons both in Pt. I and Pt. II of the schedule; and to write the proper entry required, according to Sched. F of the Pharmacy Act, 1868, for the sale of a poison coming within Pt. I of the Poison Schedule;

(*c*) To state the conditions imposed on the sale of scheduled poisons by wholesale and for export, and upon the sale of a scheduled poison when forming an ingredient in a medicine dispensed;

(*d*) To state the conditions applicable to the sale of poisonous substances;

(*e*) To explain the conditions imposed on the sale of arsenic by the Arsenic Act;

(*f*) To have a general knowledge of the requirements of the Dangerous Drugs Acts and Regulations as they affect the pharmacist.

In addition to this oral examination, he will be required to pass a written examination in the following enactments: the Pharmacy Acts, the Arsenic Act, the National Health Insurance Act, the Dangerous Drugs Acts and Regulations, Apothecaries Act, Medicine Stamp Act, Shops Act (sections dealing with the sale of medicines), Weights and Measures Act, Protection of Animals Act, Sale of Food and Drugs Acts, Registration of Business Names Acts, Venereal Diseases Act, and the relevant sections of the Acts relating to the use of stills, the sale of spirits (including methylated spirit, medicated wines), storage and sale of explosives or inflammable substances, sale of abortifacients. At this rate, it appears that the ordinary citizen will soon be in a position to get legal advice at the same time that he obtains his physic, for it is quite certain that a general legal training will be a necessary preliminary to the absorption of all these statutory enactments. The budding dispenser will be all at sea unless he knows the case law as well as the statute law on these subjects.

Criminal Law and Practice.

Magistrates' Jurisdiction in Ejectment.—A mortgagee may avail himself of the procedure for recovering possession summarily, as shown by the recent case of *Pretty* v. *Taylor* at Ipswich. The applicant was a second mortgagee, and his case was that (1) the premises were within the Small Tenements Recovery Act, 1838, as they were let on a tenancy at will at a peppercorn rent; (2) the application was reasonable, inasmuch as the defendant (having bought the property in 1929 for £1,150) had borrowed no less than 81 per cent. of that amount on mortgage; (3) the premises had been involved in two police court cases, and foreclosure proceedings were only abandoned on compassionate grounds. The defence was that (*a*) the premises were outside the above Act, as the rateable value was over £20 a year (the rental limit under s. 1) and property now valued at £1,200 was not a "small tenement"; (*b*) interest was merely two months in arrear, the amount being £2 5s. only; (*c*) a clause in the mortgage had led the defendant to understand that she had twenty-one days' grace in paying interest; (*d*) the latter had been in arrear owing to the cost of internal repairs, viz., £200; (*e*) the defendant would lose her livelihood (as a commercial hotel keeper) if ejected. It was pointed out for the applicant that (*a*) the above Act had been in force since 1838, but it was not until the Short Titles Act, 1892, that it received its present title, with the word "small"; (*b*) the present title was by way of identification only and did not limit the scope of the Act; (*c*) the only stipulation was that the rent should not exceed £20 a year, and there was no limitation upon other payments, such as rates; (*d*) the defendant had only produced receipts for repairs to the value of £25. The mayor (Mr. G. W. Seaton) and other justices directed the usual warrant to issue. This decision was in accordance with *In re Richmond Borough Justices* (1893), 10 T.L.R. 68, in which it was held that the payment of more than £20 for rates and taxes (in consideration of occupation) was not a rent, and therefore the magistrates had jurisdiction.

Insurable Interest in Lives of Relatives.—The need for vigilance in regard to the above has been shown in two recent cases. In *Bradshaw* v. *Gallagher*, before the Birkenhead magistrates, the claim was for £17 17s. in respect of a policy issued by the Scottish Legal Life Assurance Society (at a premium of 3d. a week) on the life of the complainant's daughter-in-law. The proposal form showed, however, that the complainant had described herself as the mother of the deceased, and the defence was that (as the policy was in fact illegal) the claim could only be for the return of the premiums. On the understanding that these would be refunded, it was stated by Mr. W. F. Miller (chairman) that the case would be dismissed.

In *Industrial Assurance Commissioner* v. *Holliday and Birch*, before the Mansfield magistrates, the first defendant (an agent) was summoned for effecting an illegal policy on the life of an aunt by marriage of the second defendant, who was summoned for aiding and abetting. The first defendant's case was that (1) he had advised the second defendant that she could not insure her aunt, and the latter had therefore insured herself; (2) the fact that the first premium was borrowed from her niece (the second defendant) would not have enabled the niece to draw the money; (3) although the niece also kept the policy, there was nothing illegal in her so doing, on behalf of the insured person. The chairman, Alderman J. S. Alcock, stated that, although irregularities had been disclosed, there was insufficient evidence to convict. Compare the note on "Contracts *Uberimmæ Fidei*" in the "County Court Letter" in our issue of the 7th May, 1932 (76 Sol. J. 323).

Mr. William Alfred Francis, solicitor, of Ipswich, left £9,703, with net personalty £7,643.

The Statute of Limitations.

CLAIMS BASED ON FRAUD OR FRAUDULENTLY CONCEALED.

THE case of *Lynn* v. *Bamber* [1930] 2 K.B. 72, dispels any lingering doubts as to the application of the Statute of Limitations (21 Jac. 1, c. 16) to claims based on fraud and causes of action fraudulently concealed. Before the Judicature Acts, the rules of equity were at variance with the rules of common law on these matters. The Judicature Acts provided, however, that "where there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter the rules of equity shall prevail in all courts whatsoever in England," and *Lynn* v. *Bamber* clearly illustrates the application of this provision to "pure" common law causes of action.

The facts of the case were as follows: In 1921 the plaintiff bought from the defendant some young plum trees, sold and warranted as "Purple Pershore." The plaintiff, after some years, found that the trees were not "Purple Pershore," but "Coe's Late Red," being trees of inferior quality. In 1928 he brought an action claiming damages for breach of warranty. The defendant denied the breach and pleaded the Statute of Limitations. In his reply the plaintiff alleged fraudulent representation by the defendant and also fraudulent concealment. On the facts, MCCARDIE, J., held that it was relevant for the plaintiff to prove, if he could, that the defendant (1) acted fraudulently in making his representation and warranty in 1921, or (2) fraudulently and actively concealed from the plaintiff his breach or warranty.

Before the Judicature Acts, as indicated above, the rules of equity were at variance with the rules of common law. The common law rule was that the Statute ran from the time when the cause of action first arose. Thus, it was no answer to a plea of the Statute that the party defrauded had been prevented by the fraud of the other from discovering the cause of action until after the time of limitation had run: *Hunter* v. *Gibbons*, 1 H. & N. 459; *Imperial Gaslight Co.* v. *London Gaslight Co.*, 10 Ex. 39; and see also the judgment of Lord COLERIDGE, C.J., in *Gibbs* v. *Guild* (1882), 9 Q.B.D. 59. Concealment or no concealment, that was the position at common law before the Judicature Acts, and, applying the rule to *Lynn* v. *Bamber*, it is obvious that the plaintiff's replication could not succeed, for the cause of action arose upon the making of the representation and/or the giving of the warranty in 1921. The action was not brought until 1928, a lapse of more than six years.

Equity, however, in conformity with the spirit, though perhaps not with the letter, of the Statute, established an exception to the general common law rule. In cases of fraud or fraudulent concealment, the Statute only ran from the time of discovery: *Blair* v. *Bromley* (1846), 5 Hare 542. The judgment of Lord COLERIDGE, C.J., in *Gibbs* v. *Guild* emphasises this. He said: "They (the Courts of Equity) say that where the cause of action and the knowledge of the cause of action are contemporaneous, there the Statute runs in Courts of Equity as it runs at common law, but that where the existence of the cause of action is concealed by the fraud of the person who creates it, such person shall not take advantage of the wrong which he himself has done, and that a fresh cause of action accrues from the moment that the fraud is discovered, and that to that fresh cause of action the Statute of Limitations will be applied by the Courts of Equity." If, therefore, equitable relief had been sought in such a case as *Lynn* v. *Bamber*, the plaintiff's reply would have been held good.

So far as *Lynn* v. *Bamber* is a case of fraud, as opposed to fraudulent concealment, MCCARDIE, J., followed *Bulli Coal Mining Co.* v. *Osborne* [1899] A.C. 351, where no question of fraudulent concealment arose. He said that, although not technically binding upon him, it accorded with equity principles and was agreeable to good sense and justice.

In *Bulli Coal Mining Co.* v. *Osborne* the appellants had furtively for a period of years taken the respondent's coal by means of a wilful and secret underground passage; and no laches was attributable to the respondents in not discovering the existence of the wrongful workings by the appellants. It was held that the respondents were entitled to recover from the appellants the market value of all coal worked and gotten by them from the respondents' land, and that to such a claim the Statute of Limitations did not apply.

The observations of LORD JAMES OF HEREFORD, delivering the judgment of the Privy Council, are worthy of quotation. He said: "Now it has always been a principle of equity that no length of time is a bar to relief in the case of fraud, in the absence of laches on the part of the person defrauded. There is, therefore, no room for the application of the Statute in the case of concealed fraud, so long as the party defrauded remains in ignorance without any fault of his own. The contention on behalf of the appellants that the Statute is a bar unless the wrongdoer is proved to have taken active measures in order to prevent the detection is opposed to common sense as well as to the principles of equity. Two men, acting independently, steal a neighbour's coal. One is so clumsy in his operations, or so incautious, that he has to do something more in order to conceal his fraud. The other chooses his opportunity so wisely, and acts so warily, that he can safely calculate on not being found out for many a long day. Why is the one to go scot-free at the end of a long period rather than the other? It would be something of a mockery for Courts of Equity to denounce fraud as a 'secret thing' and to profess to punish it sooner or later, and then to hold out a reward for the cunning that makes detection difficult or remote."

Now, dealing with fraudulent concealment as opposed to fraud in the original transaction, it is clear that, since the passing of the Judicature Acts, this plea has provided a good answer to a plea of the Statute, at all events in those cases where there would have been a concurrent remedy in the courts both of law and equity before the Judicature Acts. In such cases, the Statute runs from the time of discovery. *Gibbs* v. *Guild* (1882), 9 Q.B.D. 59, was an action to recover by way of damages money lost by the fraudulent representations of the defendant. The defendant pleaded the Statute, and the plaintiff, in his reply, alleged that he did not discover and had not reasonable means of discovering the fraud within six years before action, and that the existence of such fraud was fraudulently concealed by the defendant until within such six years. A majority of the Court of Appeal held that this was a good reply.

BRETT, L.J., in his judgment said: "It is true that the present case might be treated as a common law action, but it is also one which might be treated before the Judicature Acts as a suit in equity. Under these circumstances, it seems to me that merely because it is brought in the Common Law Division we have no right to say it is not a suit in equity, and if it be a suit in equity then we are bound, by the authorities to which I have referred, to hold that the plaintiff is not deprived of his remedy by reason of the Statute of Limitations, because the reply sets up an equity to which effect would be given by a Court of Equity." Thus, at all events, the equitable principle applied where, before the Judicature Acts, there would have been concurrent remedies. But *Lynn* v. *Bamber* extends the equitable principle to "pure" common law actions, and MCCARDIE, J., treated *Gibbs* v. *Guild* as capable of the wider application indicated by the Court of Appeal in *Armstrong* v. *Milburn* (1886), 54 L.T. 723.

The doubt, which has existed until *Lynn* v. *Bamber*, is expressed in "Salmond's Law of Torts" 7th ed., at p. 202, note (*f*): "It has been suggested, however, that the equitable rule does not even yet apply to causes of action which were formerly cognisable solely at common law." But, in the text on the same page, it is suggested that the better opinion takes

the contrary view. Again, in "Halsbury," vol. 19, p. 49, note (*a*), it is definitely expressed that the equitable rule does not apply in all cases: "The effect of the Judicature Act, 1873, is to cause the equitable rule to prevail in all cases in which before the Act there was a concurrent remedy at common law and in equity. In actions at common law, where there was no concurrent remedy in equity before the Act, the common law rule prevails as regards the original cause of action; but where the fraudulent concealment is of itself a cause of action, time runs against the common law remedy of the persons defrauded from the time of discovery of the fraud."

The quotations from "Halsbury" and "Salmond" indicate the doubt. McCardie, J., held that the answer is to be found in *Gibbs* v. *Guild* and *Armstrong* v. *Milburn*. In *Gibbs* v. *Guild*, in spite of the words of Brett, L.J., quoted above, there is to be found in the judgment of Lord Coleridge, C.J., language capable of wide application. Lord Coleridge said: "Here an action is brought either to recover money back, or for damages, and, for reasons which I have already given, I do not think it signifies much for which it is brought. To that there is a defence which, prior to the Judicature Act, 1873, would have barred this claim at common law, but we are no longer bound by the rules of common law, and we are here to see what the Court of Equity would have done in such a case as the present. It seems to me that, basing myself on the general terms of s. 23 and s. 24, sub-s. (1), of the Judicature Act of 1873, we are bound to give the relief that a suitor would have had in equity, and to uphold, for the reasons I have given, the validity of this replication."

Armstrong v. *Milburn* was an action for negligence. The defendant pleaded the Statute, and, in the reply, it was alleged that owing to the active and deliberate fraud of the defendant, the plaintiff did not discover and had not the means of discovering the defendant's negligence until within six years before the action. The Divisional Court held that this was not a good answer, taking the view that the principle of fraudulent concealment did not apply to a "pure" common law action. The Court of Appeal appear to have taken another view, for Lord Esher, M.R., said: "Even if there had been negligence the plaintiff would still fail, for the Statute of Limitations has run against her claim, and it is clear that she could have no answer to the defence of the Statute *unless fraudulent concealment were proved*; but I cannot find any evidence of fraud or of any concealment at all."

There is yet, however, to be considered the case of *Osgood* v. *Sunderland* (1914), T.L.R. 531, in which Bailhache, J., held that, in a common law action for breach of contract, it was no answer to a plea of the Statute that the breach was fraudulently concealed. It had been decided, he said, by Matthew and A. L. Smith, JJ., in *Armstrong* v. *Milburn*, that before the Judicature Act the plea of the Statute was an absolute answer in a common law action, and the reply of fraudulent concealment would not get rid of the Statute, and that principle still applied . . . A. L. Smith, J., in *Armstrong* v. *Milburn* held that, inasmuch as *Gibbs* v. *Guild* was a case in which a bill in equity would in older times have lain, therefore a replication of fraud was good because that replication would have been a good one if the action had been brought in a court of equity. *His own personal opinion as to the decision in* Gibbs *v.* Guild *was different*; he was, however, bound by the decision of the Divisional Court in *Armstrong* v. *Milburn*.

McCardie, J., discarded this decision on the ground that the decision of the Court of Appeal in *Armstrong* v. *Milburn* was not present to the mind of Bailhache, J. The decision in *Osgood* v. *Sunderland* is, however, interesting, for Bailhache, J., clearly indicated that, were he free to do so, he would have taken a different view, presumably the view taken by McCardie, J., in *Lynn* v. *Bamber*.

"Halsbury," Vol. 19, p. 49, note (*a*), raises the further doubt as to whether the rule of fraudulent concealment is not limited to cases where the transaction giving rise to the cause of action is itself of a fraudulent nature. The cases considered here, except *Armstrong* v. *Milburn* and *Osgood* v. *Sunderland*, are cases in which the transaction giving rise to the cause of action was fraudulent. *Armstrong* v. *Milburn* was an action for negligence; in *Osgood* v. *Sunderland* the claim was for a breach of contract. McCardie, J., in *Lynn* v. *Bamber*, accepted the decision of the Court of Appeal in *Armstrong* v. *Milburn* as extending the rule of fraudulent concealment to "pure" common law actions. That, together with the indication given by Bailhache, J., in *Osgood* v. *Sunderland*, that he would have been prepared to apply the rule in that case had he been free to do so, is sufficient, it is submitted, to answer this doubt. The rule of fraudulent concealment is, therefore, applicable to all cases whether the original transaction is tainted with fraud or not.

In *Oelkers* v. *Ellis* [1914] 2 K.B. 151, it was contended that, even assuming that the claim for fraud would not be barred by the Statute, the plaintiff had not six years from discovery of the fraud in which to pursue his remedy, but must bring his action within a reasonable time after discovery. The answer is found in the judgment of Horridge, J., where he said: "If it is held that on discovery he has a shorter time within which to bring his action than he would have done otherwise, then his right is in fact affected by the time which elapsed before he made his discovery; and Lord Coleridge, C.J., expressly says in *Gibbs* v. *Guild* that 'a fresh cause of action accrues from the moment that the fraud is discovered and that to that fresh cause of action the Statute of Limitations will be applied by the Courts of Equity.'"

It is clear, therefore, that, in cases where the cause of action is fraudulent in nature or, even though untainted with fraud, is fraudulently concealed, the equitable rule that time only runs from discovery now applies. This is the case even in "pure" common law actions, at all events, since *Lynn* v. *Bamber*.

The Rights of Way Act.

The above Act, which comes into operation on the 1st January, 1934, should by no means be neglected by landowners and their advisers, for the sequel of neglect may be the acquisition of a public right of way across private property, with consequent depreciation of its value. And even remaindermen may in certain circumstances find that, unless they bestir themselves, time may be running against them under the Act, notwithstanding that their interests are not even vested in possession. It is also of importance to clerks and advisers of county and district councils, to which landowners desiring to preserve their rights may have to give certain notices.

Its chief effect is no doubt generally known. In brief, it imports the principles of the Statutes of Limitations to the acquisition of public rights of way, just as they were applied to the establishment of private rights of way and other easements by the Prescription Act a hundred years ago. Accordingly, by s. 1 (1), an owner in fee simple in possession who allows the public to use a particular path or road across his estate for twenty years will be deemed to have dedicated it as a public highway, unless he manifests some contrary intention. Possibly he could do this by occasionally turning off a trespasser, but the Act itself prescribes methods which he will certainly do best to follow. The simplest and most obvious, if, according to the usage of many good landowners, he wishes the public to enjoy walks and rides across his estate without thereby acquiring the right to do so, will be to put up notice-boards, in accordance with s. 1 (3), visible to the public using such ways, inconsistent with the intention to dedicate. "Trespassers will be prosecuted," would certainly suffice for the purpose of preserving the rights, but it precludes any notion of indulgence. One nobleman is or was reported

to put up notices on his land, "No public right of way, but you are welcome to walk along the path." This would be more apt, but some sort of safeguard against abuse may be suggested, such as "provided you do no damage and leave no litter." One abusing the licence would thus become a trespasser *ab initio*, in accordance with the ancient doctrine.

If the person in possession is not capable of dedicating the land, as when he is a tenant for life, the statutory period for presuming dedication is fixed by s. 1 (2) at forty years. In the case of lunatics and infants entitled in fee and residing on a particular property, a question might perhaps arise whether they or their trustees under the S.L.A., 1925, were in possession, but it cannot do so here, since in neither case would there be power to dedicate a public highway to the detriment of the estate.

If, as sometimes now happens in disputes as to rights of way, such notice-boards as above are torn down or defaced, the owner may preserve his rights by giving formal notice of them to his county or local district council. In addition, he may, by s. 1 (4), deposit with such councils a map of his estate, to a scale of not less than six inches to the mile, with a statement indicating what ways over it, if any, he acknowledges to be public. There is then provision for statutory declarations to be lodged with such councils at intervals of not over six years, by the owner and his successors, to the effect that no additional ways have been dedicated since the plan or the last statutory declaration as the case may be has been deposited. The question as to how far Settled Land Act trustees are legally responsible for the positive performance of such duties in respect of their estate is one which will no doubt have to receive due consideration, having regard to s. 97 (*a*) of the S.L.A., 1925, and the principles laid down, and still presumably applicable, in *Hatten* v. *Russell* (1888), 38 Ch.D. 334. Their liabilities as statutory owners under s. 107 of the Act arise only in the exercise of powers under the Act. Nevertheless, if there is no tenant for life *sui juris*, they should certainly preserve their estate from public or private encroachment, so far as lies in their power, and would be justified in charging the estate with all expenses in doing so.

Where land is let, s. 1 (5) of the new Act provides that the landlord may put up and preserve the notice boards on it, but so that no injury is thereby done to the business or occupation of the tenant. A right of entry for the purpose, no doubt, may be implied, but the Act might have been better framed if it had given a right of entry for the purpose of seeing whether the public were in process of acquiring a right of way. A landlord who acted reasonably in such a quest, however, could hardly fear an action of trespass.

In the normal case, presumably the tenant for life will preserve the interests of remaindermen in the course of preserving his own. In case he does not do, however, s. 4 permits the remainderman to proceed against trespassers for damage or injunction, as if he were in possession. In the conceivable case of a tenant for life at enmity with the remainderman, and deliberately trying to wreck the inheritance, the efficacy of this remedy appears open to doubt, because the former would forbid the latter to inspect the land to see what was going on. However, the fact that the remainderman or his representatives were forbidden entry would certainly be evidence to negative a public right of way accessible to everybody.

Both owners and remaindermen may be recommended to take stock of the position during the rest of the present year, and next, for when once the Act has come into force, it appears to create its own periods of limitation retrospectively, unless the proper steps have been taken, as above, to destroy them before it does so.

By s. 1 (7) the Act is excluded in the case of land in possession of a corporation or other body or person for statutory purposes, if dedication would be contrary to such purposes.

Section 3 alters the law of evidence in respect of the dedication of a highway, by allowing any map, plan, history of the locality or other relevant document to be put in evidence for what it is worth. This will presumably overrule the decision of *A.-G.* v. *Horner* (No. 2) [1913] 2 Ch. 140, where there was a question of the admission of certain ancient maps, produced from the custody of the British Museum and Guildhall Library, and COZENS-HARDY, M.R., prefaced his judgment, "Overborne by the weight of authority, and contrary to my own opinion of what would be reasonable and just, I feel bound to reject these maps." Lord WRENBURY expressed similar regret, though, curiously enough, Lord SUMNER, in agreeing with his brethren as to the decision, differed from them in approving of the rigidity of the law. The Legislature has now followed the opinion of the majority of the court, though, of course, the Act is limited in its ambit to proof of public highways, and therefore, will not apply in, for example, boundary cases, so that *Collis* v. *Amphlett* [1918] 1 Ch. 232, will remain untouched in respect of the rejection of an award map in such a dispute. So far as a tithe map was rejected in a right of way case, *Copestake* v. *West Sussex C.C.* [1911] 2 Ch. 331, may also be regarded as overruled by the Act, a decision, perhaps, somewhat difficult to reconcile with *Fuller* v. *Chippenham R.D.C.* (1915), 79 J.P. 4, where such a map was admitted.

Costs.

COUNSEL'S REFRESHER FEES.

IT has been the custom to allow counsel's refresher fees for a considerable time. It was the practice formerly to allow counsel an additional fee for work done in cases which were tried with *viva voce* evidence and the case lasted longer than one day. The refresher fees were thus really an addition to the brief fee and were allowed on the principle that it was impossible to estimate beforehand how long cases which were tried with *viva voce* evidence would last. When *viva voce* evidence was introduced into the Chancery Court refresher fees were allowed there, and in the case of *Easton* v. *London Joint Stock Bank* (1888), 38 Ch. D. 25, it was decided that refresher fees were permissible in the Court of Appeal, notwithstanding that in the majority of cases heard in that court there was no *viva voce* evidence. The principle still was that the extra allowances to counsel were rather in the nature of additions to the brief fee, which had been miscalculated by the solicitor, than as ordinary daily refreshers.

Order 65, r. 27 (48), provides that, on the trial of a cause or matter upon *viva voce* evidence, where the trial lasts more than one day and occupies either on the first day only, or partly on the first and partly on a subsequent day or days, more than five hours, the taxing master shall allow for every clear day subsequent to that on which the five hours shall have expired the following fees:—

To leading counsel	5 to 10 guineas.
To second counsel	3 to 7 guineas.
To third counsel	2 to 5 guineas.

It was decided in *Stewart* v. *Weber* (1903), 89 L.T. 559, that the taxing master had discretion, in proper cases, to allow more than the *maxima* laid down in r. 48, and KENNEDY, J., observed that not only did sub-r. 29 of r. 27 give the taxing master this discretion, but that it was only fair as between party and party that he should be thus enabled to increase the fees, for he would be able to judge as to the value of the work after it was done, and that such discretion would obviate the necessity for the solicitor marking a brief with a large fee in anticipation that the case would prove a heavy one, when in fact the case might be settled on the day of the trial.

A note of the time occupied by a case can be obtained from the registrar, and it should be observed that in calculating the period of five hours neither the mid-day adjournment nor the time occupied by urgent *ex parte* applications should be deducted: see *Collins* v. *Worley*, 60 L.T. 748.

A refresher is allowed where the trial lasts for a period substantially longer than five hours; and, in fact, it is customary for a refresher to be allowed even where the excess over the five hours is not substantial. Thus, a refresher was allowed in the case of *Wicksteed* v. *Bigg*, 52 L.T. 428, where the trial lasted four hours on the first day and two hours on the second. Again, in *The Courier* (1891), 66 L.T. 386, where the trial lasted two and one-quarter hours on the first day and five and one-half hours on the second day, it was decided that counsel was entitled to a refresher. A refresher was allowed in *O'Hara* v. *Elliott* [1893] 1 Q.B. 362, where the trial lasted four and one-half hours on the first day and five hours on the second.

The wording of sub-r. 48 does not necessarily mean that a complete five hours must elapse before a refresher may be allowed, and it was decided in the case of *Dunning* v. *Grosvenor Dairies*, 46 Sol. J. 69, that counsel was entitled to eight refreshers where the case lasted nine days, including two Saturdays.

The amount usually allowed as a refresher fee is from one-third to one-half of the brief fee, but it will be remembered that the amount is in the absolute discretion of the taxing master.

These notes with regard to refresher fees are, of course, applicable only to the various divisions of the Supreme Court. In the House of Lords and the Privy Council there is an inflexible rule that daily refresher fees are only allowable at a maximum sum of ten guineas per diem for both senior and junior counsel. On the other hand, it should be noted that in the High Court time is an essential element in calculating the refresher fees allowable to counsel, but in both the House of Lords and the Privy Council the daily refresher fee of ten guineas is allowable for every day that the case is in the paper irrespective of the time occupied, save that where the case commences after 3 p.m. on any particular day no refresher fee will be allowed for the next day.

Company Law and Practice.

CXL.

THE RIGHT TO PETITION FOR WINDING UP.

Who can present a petition for winding up a company? Or rather, who is entitled in the eyes of the law to do so? Well, you say, either a creditor or a contributory can do so, and, of course, you are perfectly right. But the matter can hardly be left there, because it is necessary for a true interpretation of that answer to decide what is meant by creditors and contributories; further, there are certain limitations and restrictions which have to be considered, even when we have defined these terms to our satisfaction. It is s. 170 which gives creditors and contributories the right to present petitions for winding up, a right which it also confers upon the company itself. The term "contributory," if we may shortly dispose of it first, is defined in s. 158, in a definition not unreminiscent of our friend the archdeacon, though we are further assisted by s. 157.

A contributory, says s. 158, is a person liable to contribute to the assets of a company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory. Section 157 sets out at length the liabilities as contributories of present and past members, and I do not wish to detain my readers by dealing with these questions—it is not very long since this column dealt with them at some length, particularly with regard to the liabilities of B contributories. There is, however, this very important point to be made, that, though the contributory may be under no actual liability to contribute, as, for example, where the shares which he holds are fully paid up, he is nevertheless a contributory within the meaning of s. 170, and may present a winding-up petition. (See *Re National Co. for Distribution of Electricity* [1902] 2 Ch. 34.)

It is well established that the articles of a company cannot deprive a contributory of his rights to present a winding-up petition, for this right is one which is conferred upon him by the statute, the positive provisions of which cannot be overriden by the constitution of the company; but the court will protect a company from oppressive action on the part of a contributory, in the sense that a contributory who is in arrear with his calls will not be heard on a petition presented by him until he either pays the amount of the arrears to the company or into court: *Re Crystal Reef Gold Mining Co.* [1892] 1 Ch. 408. Further, s. 170 severely restricts the rights of contributories in this respect, by providing that a contributory can only petition if the number of members is reduced below two in the case of a private company, or below seven in any other case, or if his shares, or some of them, were either originally allotted to him, or have been held by him, and registered in his name, for at least six months during the eighteen before the commencement of the winding up, or have devolved on him through the death of a former holder. Section 170 (3) contains provisions with regard to males who are, under s. 162, contributories by reason of the holding by their wives of shares, but this only applies to marriages contracted before 1883, and is therefore not of any very wide or general application at the present day.

There is one other person who may present a petition, and to him it would perhaps be as well to refer briefly before passing on to creditors. Where a company is being wound up voluntarily or subject to supervision, a winding-up petition may be presented by the official receiver (as well as by any other person authorised by the section), but the court is not to make an order on such a petition unless satisfied that the previous winding up cannot be continued with due regard to the interests of the creditors or contributories (s. 170 (2)). In this connexion we may note that the requirements for the making of a compulsory winding-up order succeeding a voluntary liquidation are not the same when the official receiver petitions under this section as when a contributory petitions; a contributory must still show that the rights of the contributories will be prejudiced by a voluntary winding up (s. 255); this used also to be required of a creditor, but it is so no longer. Whether the difference between s. 170 (2) and s. 255 is anything more than one of verbiage is open to question, nor does it seem to matter very much, for petitions by the official receiver are not common.

Now we can turn to the rights of creditors; the Act expressly includes, among the creditors who may petition, contingent or prospective creditors; but it provides, by s. 170 (1) (*c*), that, as regards such gentry, the court cannot hear their petitions until such security for costs has been given as the court thinks reasonable, and until a *primâ facie* case for winding up has been established to the satisfaction of the court. It appears to be the practice for these questions to be dealt with in chambers, and for a certificate to be made with regard to them before the petition can be proceeded with. It is interesting to note that, under s. 169 (4), a company is to be deemed to be unable to pay its debts if it is proved that it is unable to pay them, for the purpose of determining which the court must take into account the contingent and prospective liabilities of the company; so that though these people are not entitled to have their petition heard as of right, they may be taken into consideration if it is to be determined whether the company is able to pay its debts.

The creditor who can present a petition must have a liquidated claim against the company, and a person whose only claim to be a creditor is that he has a claim for damages of an unliquidated amount against the company is not a proper petitioner (*Re Pen-y-Van Colliery Co.*, 6 Ch. D. 477). Another point which should be remembered is that a secured creditor

may petition for winding up if he so desires—frequently, of course, he has other and better remedies which he will pursue—as a rule he will be a debenture-holder, either a sole one or the holder of one of a series, and a receiver will be appointed either under the powers in the debentures or in a debenture-holder's action. By that means the secured creditor will get a person appointed whose duty it is to look after the interests of the secured creditors, and not a liquidator who has to consider the interests of all creditors; not that I must be thought to suggest that a receiver for debenture-holders has no duties towards, or responsibilities in respect of, the unsecured creditors, for he obviously has, but he is in the first instance there to protect the interests of the debenture-holders, and that function he should be better able to perform than a liquidator.

To turn from that subject for a brief moment, I think I owe it to my readers to remind them that a case to which I devoted this column on one occasion fairly recently (to wit in the issue for 30th April last, at p. 299), namely, *Re Sir Thomas Spencer Wells: Swinburne-Hanham* v. *Howard*, has recently come before the Court of Appeal, which reversed the decision of FARWELL, J., with unanimity. This case was one of pre-Act *bonâ vacantia*, and I only mention it here in order that none of my readers may be misled into thinking that the decision discussed by me still stands. The decision of the Court of Appeal is not yet reported in the Law Reports, but it has been discussed at length and commented on in this Journal recently in the "Conveyancer's Diary," with more ability and penetration than I can hope to command. I accordingly recommend those who are interested to turn up last week's issue of this Journal and look at p. 522, where they will find the topic fully dealt with.

(*To be continued.*)

A Conveyancer's Diary.

Rent-charges and the Limitation Acts.

I notice an interesting case before Eve, J., reported in *The Times* for 14th July, and now in W.N. [1932] 189—*Sykes* v. *Williams*. The question before the court was one which I thought had long ago been decided, but it seems to have been thought worth while to test the authority of the earlier decisions.

The point was whether the right of re-entry for non-payment of a rent-charge is barred by the Statutes of Limitation when the right to recover the rent has become barred.

The facts were shortly that by a conveyance dated in 1912 the plaintiff granted to the defendant and another certain lands to the use that the plaintiff should receive thereout a yearly rent-charge of £25 payable by half-yearly payments and subject thereto and to the statutory powers for recovering the same to the use of the grantees their heirs and assigns as tenants in common. The conveyance also contained covenants by the grantees to pay the said rent and a proviso for re-entry on non-payment of any half-yearly payment of rent for the space of one year next after the day appointed for payment thereof. The defendant became entitled to a part of the land conveyed by the conveyance of 1912. No payment had ever been made in respect of the rent-charge. The plaintiff brought an action for possession, alleging in particular that the half-yearly payments due in March and September, 1919, 1920, 1921, 1922 and 1923 were in arrear for the space of one year after the due dates for payment thereof respectively.

The defendant pleaded that the yearly rent-charge was barred by the Real Property Limitation Acts, 1833 and 1874, and that the power of re-entry was incident to the rent and was also barred. Alternatively the defendant claimed relief from forfeiture.

Eve, J., held that the plaintiff was entitled to possession, but granted relief on agreed terms under the general equitable jurisdiction of the court, there being, as his lordship said, no statutory provisions for relief which applied.

No doubt the real object of the defendant in defending the case was to obtain relief, there being, as it seems to me, on the authorities, no defence whatever to the claim for possession under the power of re-entry.

Before dealing with those authorities I may mention, in passing, that the power of re-entry was, in the case under consideration, stated "to be exercisable at any time during the lives of the issue now living of her late Majesty Queen Victoria and the survivors and survivor of them, and during such further period as may be lawful."

Formerly it was held that a power of re-entry which was not limited to the perpetuity period was void, but by s. 6 of the Conveyancing Act, 1911, it was declared that the rule of law relating to perpetuities does not apply to any powers or remedies conferred by s. 44 of the Conveyancing Act, 1881, nor to the same or like powers or remedies conferred by any instrument for recovering or compelling the payment of any annual sum within the meaning of that section. Section 44 of the Act of 1881 as amended by s. 6 of the Act of 1911 is reproduced in s. 121 of the L.P.A., 1925, with some additional amendments. The latter section does not apply to a rent incident to a reversion and so not to rent reserved by a lease, although it does apply to rent-charges.

It was doubtful whether the perpetuity rule applied to an absolute right of re-entry, although it did not to a right of entry only for the purpose of perception of the rents and profits until the arrears of the rent-charge were paid.

It seems now, however, that by the effect of s. 1 (2) (*e*) of the L.P.A., 1925, the rule does not apply to such absolute rights of re-entry.

Passing from that, the authority which governs the question and was relied on by the learned judge in *Sykes* v. *Williams* is *Barratt* v. *Richardson and Creswell* [1930] 1 K.B. 686, where the earlier cases were reviewed by Wright, J., in a considered judgment which really contains all the learning on the subject.

In that case there was a lease dated in 1909 whereby the predecessor in title of the plaintiff demised certain premises to the defendant Richardson for a term of ninety-nine years at the yearly rent of £6 6s. payable quarterly on the usual quarter days. The defendant Richardson covenanted for himself and his assigns to pay the rent as reserved, and there was a proviso to the effect that if any rent should be in arrear for twenty-one days the lessor might re-enter upon the demised premises. In 1924 the term created by the lease became vested in the defendant Creswell.

No rent was ever paid by either defendant to the plaintiff.

The plaintiff commenced an action in January, 1928, claiming possession of the premises.

Wright, J., held that, although the plaintiff's right to re-enter upon the premises first accrued to him in respect of the non-payment of rent on 25th December, 1914, his claim to possession was not barred by s. 1 of the Real Property Limitation Act, 1874, and s. 3 of the Real Property Limitation Act, 1833, as not having been made within twelve years next after the time to make such entry had first accrued, but his right to re-enter accrued afresh in respect of each subsequent quarter-day whenever any part of the rent reserved under the lease was in arrear for twenty-one days, and he was, therefore, entitled to rely on the last non-payment of rent before writ issued or any previous non-payment up to twelve years before writ.

Although that was a case of a rent reserved on a demise, the principle of it applies, and was in fact applied in *Sykes* v. *Williams* to a rent-charge reserved upon a grant of a fee simple.

It was also held in *Barratt* v. *Richardson and Creswell* that the case was governed by s. 3 of the Real Property Limitation Act, 1833, which provides that all actions for debt for rent there mentioned shall be commenced and sued within twenty years after the cause of such action arose, but not after, and not by s. 42 of the Real Property Limitation Act, 1833, which provides that no arrears of rent shall be recovered by any action but within six years next after the same shall have become due.

In this connection Wright, J., after reviewing the authorities, said: "No doubt these cases depend on the language of s. 3 of the Real Property Limitation Act, 1833, but it would indeed be curious if, in respect of a right to rent recurring quarterly so long as the lease lasts, the lessor were deprived of the right of re-entry for which he has expressly stipulated in respect of each failure to pay rent, merely because, in respect of previous failures, he has not thought fit to re-enter."

Then on behalf of the defendant Creswell, who was an assignee of the lease, it was contended that relief could be obtained upon payment of six years' arrears of rent or at any rate of such arrears as had accrued after that defendant had become the assignee.

That contention was rejected, the learned judge holding that the defendant Creswell must, in order to be entitled to relief under s. 212 of the Common Law Procedure Act, 1852, and s. 46 of the J.A., 1925, pay all the arrears of rent owing under the lease. His lordship said upon this point that an analogy might be found in the judgment in *Dingle* v. *Coppen* [1899] 1 Ch. 726, where it was held in a redemption action that the party redeeming must pay all arrears of interest and could not avail himself of the six years' limitation.

Returning now to *Sykes* v. *Williams*, it seems obvious that there could be no defence to the action for possession under the provision for re-entry contained in the conveyance in that case. The right to re-enter recurs in respect of every periodical payment of a rent-charge reserved under such a grant.

It will be noticed that the statutory powers of granting relief against forfeiture were not available for the defendant, but the court granted relief under its general equitable jurisdiction on the defendant paying ten years' arrears of rent, with interest at 4 per cent., less tax. I suppose that the ten years' rent was more or less an agreed figure.

Landlord and Tenant Notebook.

Ignorance of Restrictions on Alienation.

The landlord who fails to enforce a covenant may sometimes lose the right to do so (see THE SOLICITORS' JOURNAL, vol. 74, p. 765), but a good deal has to be established before the tenant can rely on the doctrine of acquiescence. And when the covenant is one restricting assignment and sub-letting, the third party, though he may stand to lose a good deal by virtue of a forfeiture clause, will find it difficult to get home, his position being to all intents and purposes that of a new arrival on the scene. In *Willmott* v. *Barber* (1889), 15 Ch. D. 96, Fry, J., held that there are five requisites: (1) The plaintiff must have been mistaken as to his rights; (2) He must have acted upon his mistaken belief; (3) The defendant must have known of his (conflicting) rights; (4) The defendant must have known of the plaintiff's mistake; and (5) The defendant must have encouraged the plaintiff to act in his mistaken belief. The facts of the case were that the plaintiff had taken a sub-lease, for ninety-four years, of an acre of land, with an option to buy the mesne landlord's interest in that and the other four acres he held. On the strength of this option, he laid out money in raising the land and erecting buildings on it, only to find that the head lease contained a covenant against alienation without consent, and the consent was refused. (There was no qualification as to unreasonable withholding, and the L.T.A., 1927, had, of course, not yet been thought of.) The head lease also contained a proviso for re-entry covering breaches of the covenant in question. He sued his landlord for specific performance, and the superior landlord for a declaration. Specific performance is not granted if the estate conferred will at once be liable to forfeiture, so the real difficulty the plaintiff had to surmount lay in the questionable nature of his rights against the superior landlord. He succeeded in establishing that he had made a mistake as to his rights, Fry, J., holding that the fact that he could have avoided the mistake did not matter. But what he failed to prove was that the superior landlord, even if he knew of the mistake, had encouraged him; for the money expended on the one acre was not such as to lead to an irresistible conclusion that the plaintiff had an option to purchase the leasehold of the whole.

An earlier case, which could perhaps not easily arise to-day, is *Hilton* v. *Tipper* (1868), 16 W.R. 888. The plaintiff agreed to take a twenty-one-year lease from the defendant, who held the premises under a thirty-five-year lease. The head lease had a covenant prohibiting sub-letting without consent, and a proviso for re-entry in the event of breach. The plaintiff entered and commenced business, and then asked the defendant to execute the underlease. The superior landlord demanded £50 and an increased rental as a condition of giving the required consent, and the defendant refused. The plaintiff sued for specific performance, and it was held that his contract was a valid one and a decree was made, with an order for a reference as to damages in default. This was before the Conveyancing Act, 1892, s. 3, made the demand of a sum of money by the superior landlord (see now L.P.A., 1925, s. 144) illegal, as well as before the L.T.A., 1927, s. 19 (1), imported the qualification that consent is not to be unreasonably withheld.

The effect of ignoring an application for the necessary consent led to the proceedings in *Lewis & Allenby (1909) Ltd.* v. *Pegge* [1914], 1 Ch. 782. The lessees had duly applied, and had waited eleven days for a reply (they had mentioned that the prospective sub-tenant wanted possession by that day); the lessors had meanwhile forgotten the application, which had been made verbally. The lessees then proceeded to let to the proposed sub-tenant, and when sued on the covenant, were held to be justified in doing so without consent. One might compare the facts of *Nicholson* v. *Smith* (1882), 22 Ch. D. 640, which concerned the exercise of a right to renew the lease, the covenant not specifying any length of notice. It was the landlords themselves who reminded the secretary to the tenants' trustees of the covenant, by telling him, the day before the term (twenty-one years) ended, that the lease would expire next day. He instantly wrote back saying the directors were prepared to renew the lease, and it was held that the option had thereby been exercised.

Land and Estate Topics.

By J. A. MORAN.

THE market for real estate is still backward, but the general indications point to an early improvement. This is only what may reasonably be expected in view of the improved national situation. In the case of ground rents, the pendulum is indicating a very brisk market. This security has been, for a long time, the pick of the market; and ever since the Chancellor's historic speech, it has been more popular than ever. Undoubtedly it is a singularly safe investment, and, unlike others, is bound, as the reversion draws nearer, to improve in value. Its worth is mainly a matter of figures worked out by a competent local valuer after a close inspection of the property. And it does not demand the close personal attention of the prospective buyer that is usually associated with the purchase of a shop or a residence.

The new edition of "Burke's Landed Gentry," now being prepared, will afford ample proof—if proof were wanted—of the devastating effects of heavy taxation and death duties. Eleven years ago, BURKE recorded some 2,500 families; and

nearly a third of these have been compelled, since then, to dispose of their estates! Entails have been broken by consent, and farm, mill and woodland, and manor house that knew the same line of owners, have come under the auctioneer's hammer. In fact, the change has been so startling that the new edition of the well-known work will be divided into two sections—"Landed Gentry" and "Dislanded Gentry." The latter section will conceal more poignancy than one can imagine behind any bare entries in a book of reference.

Even those who were loudest in their advocacy of the cutting up of our large domains in the interests of peasant proprietorship are beginning to realise the mistaken vision that lay in front of them. And no one regrets the transformation more than the misguided enthusiasts who thought that absolute ownership of their farms meant a royal road to prosperity. Bad seasons have come and gone since then, and there was no hand to help them over the stiles, as in days gone by. Liabilities have to be met; and only one of these is interest on the money that was borrowed in order to secure possession, frequently inspired by sentiment, of the family holding.

I am sometimes asked what is the best course to pursue by a young enthusiast who is anxious to become a surveyor? Great care should be exercised in selecting the surveyor to whom the young man is to be articled. He should be engaged in the particular branch of the profession which it is desired to specialise in, and the general range of business in the office should be wide, so that during the period of articles the pupil may have a good opportunity of grasping the details of as many classes of work as possible. Articles are usually for three years and the premium varies from 100 to 300 guineas. While undertaking this necessary preliminary work he should prepare and sit for the Chartered Surveyors' Institution examinations with the object of acquiring membership of that body as soon as his pupilage is completed. That has now become essential for all who are ambitious of taking a recognised place in the profession. The right to use the designation "Chartered Surveyor," which is limited by Royal Charter to members of the Institution, is becoming more and more recognized as an indication of a high standard of technical attainment and professional probity. Assistance in preparing for the examinations may be obtained at reasonable fees, through the College of Estate Management, Lincoln's Inn Fields. This admirable institution, which is presided over by Mr. B. W. Adkin, a Chartered Surveyor of the greatest experience and with the highest qualifications, has just celebrated its eleventh birthday; and an indication of its worth and progress may be gauged from the fact that last year, in the number of students and the prizes obtained by them, was the most successful since its inception.

It is evident, from the correspondence that one sees in many of the leading London daily newspapers, that some of the Regent-street lessees expect special consideration and the modification of their ground rents; and it will be interesting to hear what the Crown authorities have to say on the subject. Unfortunately, these lessees are not the only members of the community who are bearing the consequences of a bad bargain made ten years ago; and if we were all to obtain what really is a matter of State assistance, the country would soon be in a worse way than ever. The general body of investors in British securities have suffered heavy losses during the same period, but they are not crying out for relief at the expense of the already over-burdened taxpayer. The Minister of Agriculture told the farmers last month that the most likely remedy and hope for their industry lay in getting the wheels of industry going; and what applies to agriculture ought to meet the case of traders in a luxury shopping centre. The agitation does the traders no good, as there are people who think that patronage of the well-known centre just now will mean higher prices to cope with what are described as exorbitant rentals.

Our County Court Letter.

WIVES' CLAIMS TO HUSBANDS' ASSETS.

The above subject has been considered in two cases. At Burton-on-Trent County Court, in *In re Radford*, the sum of £246 9s. was claimed by the bankrupt's wife from the Official Receiver. The applicant's case was that (1) her husband had been a fruiterer prior to the 11th March, 1930, when a receiving order was made against him; (2) she had then bought her husband's business for £10, and had since employed him at a small salary; (3) she had subsequently joined the Burton Fruit Club, paying 16s. for her share by instalments of 2s. a week; (4) the club had drawn "Orpen" in the Irish Derby Sweepstake, 1931, and had thus become entitled to £9,000, of which her share was the amount claimed on the motion. The respondent contended that the share belonged to the bankrupt, and was divisible among his creditors, the evidence being that the club meetings had been attended by the bankrupt, but the book had subsequently been altered by changing the initial "R." into "Rose," which was not, in fact, the applicant's name. His Honour Judge Longson was not satisfied that the book had been altered, and, as the husband had only been receiving a small pittance (having been bankrupt a whole year beforehand) it appeared that the wife was the contributor to the share in the club, out of the profits of the business. Judgment was therefore given for the applicant for the amount claimed, with costs out of the estate.

In *Pardoe* v. *Insull and Wife*, at Bromsgrove County Court, the claim was for £74 9s. 6d., being the balance of money lent for the purpose of financing a milk round, which was carried on by the defendants in conjunction with a haulier's business and also a small shop. The male defendant admitted the claim, and the evidence was that the female defendant (*a*) conducted the monetary transactions through her bank account; (*b*) received the takings of the milk round from her son; (*c*) paid the rent for the grazing field and also the accounts for feeding cake. The plaintiff contended that these facts were evidence of a partnership, and that the wife was jointly liable, but her case was that she had merely acted as agent for her husband, and was not personally responsible. His Honour Judge Roope Reeve, K.C., observed that his sympathies were with the plaintiff, but there was no evidence to support the legal proposition that the wife was a partner in the business. Judgment was therefore given for the plaintiff against the male defendant, with costs, and in favour of the female defendant, without costs. Compare the "County Court Letter" under the above title in our issue of the 9th May, 1931 (75 Sol. J. 305), and that entitled "Wife's Earnings as Separate Estate," in our issue of the 24th October, 1931 (75 Sol. J. 721).

LEGALITY OF SUNDAY HAIRDRESSING.

The obsolescence of the doctrine that an Englishman's house is his castle is shown by a recent prosecution at Nottingham, where a defendant was summoned for carrying on business on a Sunday, contrary to the Hairdressers' and Barbers' Shops (Sunday Closing) Act, 1930, s. 1. The case for the prosecution was that (1) an inspectress under the Shops Act had called at the house of the defendant, who denied that she worked on Sundays; (2) the inspectress nevertheless inspected the saloon, and noticed the absence of the permanent waving machine; (3) the latter was found in the private sitting-room, where a woman was having her hair waved; (4) the operator represented himself as being a demonstrator for the manufacturers, who was exhibiting the machine out of business hours, in the hope of selling it to the defendant; (5) no money passed, and the admission of the inspectress was only delayed because the model's hair was in curlers. The magistrates accepted this explanation, and the case was therefore dismissed.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Succession to Statutory Tenancy.

Q. 2528. A cottage was let before 1914 to A at a standard rent of 5s. per week. A died intestate two and a half years ago, leaving his widow and a daughter and son to occupy the premises. The widow died intestate six months after her husband, leaving the daughter and son still occupying the cottage. The landlord says that on the death of the widow the house became decontrolled on the ground presumably that the widow exhausted the privilege under s. 12 (*q*). Is this so? Cannot the daughter and son still claim the protection of the Acts, if not under their father's tenancy, at least under their mother's?

A. The landlord's contention is correct, and the proposition set out in the last paragraph of the question was negatived in *Pain* v. *Cobb* (1931), 47 T.L.R. 596. In view of the facts in the latter case, however, it should be ascertained who paid the rent in the present case, as there may be evidence upon which the court could hold that the daughter or son became the tenant on the death of A, whose widow may have thereafter become a lodger on the premises. If there is a rent-book, bearing the name of the tenant, this will be almost conclusive, as the landlord doubtless paid the rates, so that there would be no assessment in the name of any occupier.

Bankruptcy of Married Woman.

Q. 2529. A, a married woman, contracted a debt with D for dresses. B, her husband, at the time was a wealthy man. He wrote to D that he would not be responsible for his wife's debts. D, notwithstanding the notice, supplied A with dresses, and continued to supply A with dresses, and debited her with the amount. B filed his petition in bankruptcy. D sued A and obtained judgment by default, and issued a notice of bankruptcy. A, after the bankruptcy of her husband, carried on a small business for a few months. At the time she ceased to carry on business, she discharged all her trade obligations. At the hearing of the bankruptcy notice it was submitted on behalf of A that she was not liable to the Bankruptcy Laws, inasmuch as the debt was contracted before she embarked on business, and it was not a trade debt. The Registrar dismissed the notice of bankruptcy. D is appealing against his decision. Can A be made a bankrupt in view of the fact that she has paid her trade debts, and the amount she was sued for is not a trade debt?

A. The Bankruptcy Act, 1914, s. 125, provides that a married woman who carries on a trade or business shall be subject to the bankruptcy laws as if she were a *feme sole*. The section does not stipulate that a married woman shall only be made bankrupt in respect of trade debts, as pointed out by Lord Justice Scrutton in *In re A Debtor* [1927] 1 Ch., at p. 106. That case does not go so far as to decide, however, that a married woman is liable for other than trade debts incurred before she embarked on business. A's liability to be made bankrupt therefore depends on questions of dates, as, if she ordered dresses while in business, the debts thus incurred (although not debts incurred in her trade) can be made the basis of a bankruptcy notice. No case has yet decided, however, that the bankruptcy notice may include debts incurred prior to the commencement of the business, though the language in the above-cited judgment is apparently wide enough to justify such a decision.

Bookmaker's Liability for Winnings.

Q. 2530. A client of mine who places bets regularly gave a commission of £3 10s. to be placed on a horse in the 2 p.m. race on Saturday, the 14th May. The commission was given to an agent or runner for a certain local bookmaker, and I might mention that this particular agent has accepted numerous bets for the same bookmaker on previous occasions from my client. The money was handed over to the agent at 1.40 p.m. and the agent then went to his principal's office, and at 1.55 p.m. gave in the commission, which was accepted by the principal without reservation. At approximately 2.12 p.m. the agent was telephoned to by his principal at a known place, and informed that my client's commission for the 2 p.m. race had not been accepted. Naturally, as the race had been duly run, and my client's horse had won, the agent immediately informed my client, and he telephoned to the bookmaker, who admitted that the commission was placed before 2 p.m., but stated that he told his agent the bet was not on unless it could be got away, which I assume to mean "laid off." The agent denies that this conversation took place, and states that the commission was accepted without reservation, and it can be proved that the bookmaker accepted another small commission from the same agent at the same time on the same horse, and duly paid the amount won. Under these circumstances I have written the bookmaker, demanding payment of the amount due, and I shall be glad of your advice as to what course to pursue, should my letter meet with a refusal. I am aware that in an action for recovery of the money it is open to the bookmaker to plead the Gaming Acts, but my client is quite willing to take this risk, as he feels the matter should be made public on principle. However, on looking the matter up in the "Annual County Courts Practice," I find a note which somewhat leads me to the conclusion that the county court cannot entertain an action for the recovery of such moneys, even if the Gaming Acts are not pleaded, and I shall be pleased if you will inform me whether my interpretation is correct, and should it be so, as to what is the best course to pursue in order to bring the matter to a satisfactory conclusion. I might add that the amount of money due to my client is £15 7s. 6d., so that the High Court has no jurisdiction.

A. The circumstances are rather unusual, and further evidence should be obtained as to how and where the "particular agent has accepted numerous bets for the same bookmaker on previous occasions from my client." It may be that the client and/or the agent have been committing offences under the Betting Act, 1853, s. 3. The questioner has correctly interpreted the "County Courts Practice," and no judge would take cognisance of the action once it had transpired that the claim was for the recovery of winnings on bets. The best course to pursue is to inform the bookmaker that, failing a satisfactory conclusion, the matter will be laid before Tattersall's Committee. Even if the client brought an action, not for the amount of the winnings, but for damages for breach of duty, this would fail under the principle of *Cohen* v. *Kittell* (1889), 22 Q.B.D. 680. If it can be proved that the winnings were actually received but not paid over, they can be recovered in accordance with *De Mattos* v. *Benjamin* [1894] 63 L.J. Q.B. 248, but the fact of the other bet having been paid on the same horse is no evidence of the receipt of the winnings on the bet of the questioner's client.

Reviews.

The Life of Lord Carson. Vol. I. 1932. By EDWARD MARJORIBANKS. Demy 8vo. pp. viii and (with Index) 455. London: Victor Gollancz, Ltd. 15s. net.

The natural order of things is reversed when the subject of a biography survives its author, and readers of this volume will deplore the early death which left half-finished so vivid a portrait.

It is not the work of an admirer merely, but of an enthusiastic admirer. In all probability, it will set a new fashion in biography, for the persiflage of which Lytton Strachy was so elegant a master has by this time been exhausted by Hobbs, Nobbs, Stokes, Nokes, and the crowd which made the most of a marketable literary discovery. The standpoint of this book is at the other extreme with the disadvantages consequent upon extremity, but the new style is no less readable and entertaining than the old. Indeed, excessive "readability" becomes in several places a defect, the narrative being dramatised, in the sense in which the posters use the word "dramatic," and each page adorned with headings rather suggestive of headlines.

The surroundings in which Lord Carson's legal career had its beginnings are vividly depicted—the old courts of Queen's Bench, Common Pleas and Exchequer still existing in the legal Ireland of his call and presided over by forcible personalities of the old judicial type; the convivial camaraderie of the Dublin Bar, convivial to a degree never attained among the bricky towers of the Temple. Thence is traced the shaping of the destiny which led him on, avoiding the backwater of an Irish County Court Judgeship, escaping the honourable aloofness of the Presidency of the Probate, Divorce and Admiralty Division, on in growing activity in Parliament and at the Bar to his crowning professional triumph in the Archer-Shee victory, won against governmental officialdom entrenched and fortified with every privilege of state immunity.

The book suggests a natural comparison with the "Life of Marshall Hall." The author seems to draw it himself when he says at the outset that "a great advocate's fame is always written in sand." Brightly as he shone in the courts, the subject of this biography is of vastly greater importance in the history of the United Kingdom than the most dazzling meteors that have shot across the forensic firmament. Yet the interest of this work rests mainly on Lord Carson's advocacy, for his career is sharply divided into two periods, the first as a leader of the Bar and the second as a leader of a nation. The author reached the climax of the former, but death prevented him from fulfilling the object with which he set out, namely, "to call attention to the importance of Carson's work during the greatest crisis of British history" as Leader of the Opposition in 1915-1916.

It is unhappily idle to conjecture whether the young biographer's style would have adapted itself as readily to the story of statesmanship as to the story of advocacy. The materials which he prepared for the second volume lie at present in Lord Carson's hands. In a way, it seems hardly unfit that it has not been given to one man alone to write a life which it seems hardly credible that one man alone could live.

Books Received.

The Law of Trusts. By A. MACKENZIE STUART, K.C., LL.B. 1932. Demy 8vo. pp. xxxii (with Contents and Table of Cases) and (with Index) 436. Edinburgh: W. Green & Son, Ltd. 25s. net.

A Simplified Guide to Rating and Assessment (outside London). By DENNIS R. COCKSHAW, F.C.R.A., F.N.A. (Rating). 1932. Demy 8vo. pp. 62. London: Gee & Co. (Publishers), Ltd. 3s. 6d. net (post free, 3s. 8d.; abroad, 3s. 11d.).

Obituary.

MR. C. F. NAPIER.

Mr. Charles Frederick Napier, formerly Judge of the Madras High Court, died at his residence at Godmanchester on Thursday, the 21st July, at the age of seventy-two. He was educated at Tonbridge School and Keble College, Oxford, where he graduated with honours in law in 1882. He was called to the Bar by the Middle Temple two years later, and joined the North Wales Circuit. He went to Madras in 1900, and after nine years of private practice, he was appointed Public Prosecutor and Government Pleader. After acting for a time as Advocate-General of Madras, he was raised to the High Court Bench in 1914, and retired after seven years' judicial service.

MR. F. C. E. JESSOPP.

Mr. Frederick Charles Edenborough Jessopp, solicitor, of Waltham Abbey, head of the firm of Messrs. Jessopp & Gough, died suddenly at Folkestone on Thursday the 21st July, at the age of seventy. Mr. Jessopp, whose family had practised at Waltham Abbey for nearly 200 years, was admitted a solicitor in 1884. Besides holding other appointments, he was Clerk to the Justices of Stoke Newington, Tottenham, Wood Green, Enfield, Cheshunt and Waltham Abbey.

MR. O. DAVIES.

Mr. Origen Davies, solicitor, of Treforest, senior partner in the firm of Messrs. Rosser, Davies & Hopkins, of Pontypridd, died on Friday, the 22nd July, at the age of fifty-two. He was admitted a solicitor in 1906, and succeeded his uncle, the late Mr. D. Roberts Rosser, in practice, being joined in recent years by Mr. Arthur H. Hopkins. Last year, on the death of Mr. D. Stanley Jones, Mr. Davies became secretary to the Pontypridd Law Society. He was also captain of Creigiau Golf Club.

MR. L. BEESTON.

Mr. Lewis Beeston, who was for many years Chief Clerk to the Justices at the Guildhall, has died at Brighton, where he had been living since his retirement about eighteen months ago.

Correspondence.

A Jury Mystery.

Sir,—Referring to the correspondence under this heading in your issues of the 30th April and 7th and 14th May last, may I mention (very belatedly) that in "Murray's New English Dictionary" a traverse jury is defined as a jury empanelled to adjudicate on an appeal from another jury. The following quotation is given (in vol. X, p. 296) from the 1823 Rep. Sel. Comm. Sewers Metrop. 17: "In all cases where the presentment of the jury is traversed . . . that traverse must be tried by another jury, to be summoned by the sheriff, which is called a traverse jury."

Burnley. H. B. C.
22nd July.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

"He circumscribed the ocean of the law with firm and undeviating steps." These felicitous words formed part of the panegyric pronounced by a brother judge on the occasion of the sudden decease of Mr. Baron Hullock, who died at Abingdon while on circuit on the 3rd July, 1829. He began his legal career as an articled clerk to a solicitor at Stokesly, but on the advice of a barrister whose attention he attracted, he joined

Gray's Inn, and was called to the Bar. In his time a wit thus summed up the personalities of the Court of Exchequer—Hullock, a lawyer but no gentleman, Graham, a gentleman but no lawyer, Garrow, who was neither, and Lord Chief Baron Richardson, who was both.

PERSONAL APPEARANCE.

When a farmer summoned at Wokingham for shooting at a bull remarked: "The bull is outside the court now," the chairman of the magistrates exclaimed: "Don't bring it in here. This is not a china shop." The situation recalls the story of the County Court judge who was trying an action between an officer who had shot a tiger and a taxidermist who had been employed to stuff it. The plaintiff's counsel finding himself contending with a certain amount of judicial obtuseness said at last: "Well, your Honour, as I cannot make your Honour understand, the only thing to be done is to bring the tiger into court." "What, sir?" exclaimed the judge, suddenly bringing his faculties to bear on the proposal, "A tiger! Certainly not, sir! A tiger is a dangerous beast." "But, your Honour, considering the tiger is dead it cannot do much harm to you or me." "Well! well!" replied the judge, reassured. "If that be so, I think I may safely comply with your request, but if you had told me it was alive, I should not have believed you. Let the tiger be brought into court."

WITNESSES "*En Bloc*."

At the Birmingham Assizes, Mr. Justice McCardie coined an excellent phrase when he spoke of "*esprit de voiture*," in describing the corroboration with which occupants of the same car support one another in the witness-box. He instanced a collision case he had heard, in which the story of thirty passengers from one char-a-banc was absolutely opposed to the unanimous evidence of thirty passengers from the other. Apparently, the perfect balance of the conflict did not even permit the use of the method of Mr. Baron Perrot, who once summed up a case thus: "Gentlemen, there are fifteen witnesses who swear that the watercourse used to flow on the south side of the hedge. On the other hand, gentlemen, there are nine witnesses who swear that the watercourse used to flow on the north side of the hedge. Now, gentlemen, if you subtract nine from fifteen there remain six witnesses wholly uncontradicted, and I recommend you to give your verdict for the party who called those six witnesses."

ANOTHER BACCARAT CASE.

The baccarat trial in Vienna, which has ended in a nobleman being sentenced for cheating, seems to have created almost as great a social sensation in Austria as its famous Victorian parallel in this country. Even after a lapse of forty years, the case of Lieutenant-Colonel Sir William Gordon Cumming is more vividly impressed on the public memory than any great civil action, with the exception of the *Titchborne Case*. This may be partly due to the implication of the Prince of Wales, whom an unbalanced press attacked as bitterly as if he had been the culprit. In town *The Times* wrote heavily of "questionable pleasures." Far away in the north, the *Dundee Advertiser* declared that he was "not what, with such a destiny before him, he ought to be. The trial was two-thirds a social function. Sir Edward Clarke, who led for the plaintiff, has left a vivid picture of the scene—half the public gallery appropriated by the Chief Justice for his friends, Lady Coleridge sitting by her husband to keep him awake when he nodded, one of his daughters-in-law prominently busy with her sketch-book and besides the Prince of Wales, a bevy of fashionable ladies on the bench.

RECORDER OF GLOUCESTER.

It is announced that Mr. Charles Francis Vachell, K.C., has resigned his office as Recorder of Gloucester, to which he was appointed in July, 1905.

Notes of Cases.

House of Lords.

Greenwood *v.* **Martins Bank.** 5th July.

BANKER—CHEQUE FORGED BY WIFE OF CUSTOMER—ACTION BY CUSTOMER AGAINST BANK—RATIFICATION—ESTOPPEL.

This was an appeal from a decision of the Court of Appeal, reported 47 T.L.R. 607.

The plaintiff, the present appellant, who had a banking account with the defendants, claimed that the defendants had wrongfully and without his authority paid £410 on cheques which had been forged and that he was entitled to be credited with that sum by the defendants. The plaintiff's wife forged his signature, drew out all the money left in the account, and lent it to her sister. The plaintiff, on discovering the facts, did not at once inform the bank, but about nine months later, when his wife told him that she wanted more money for her sister he stated his intention of going to the bank, and that night his wife committed suicide. The plaintiff then went to the bank and told the manager about the forged cheques, saying that he did not let them know before because he did not want to give his wife away. The bank pleaded adoption, ratification and estoppel. The court of first instance gave judgment for the plaintiff, but the Court of Appeal reversed that decision.

LORD TOMLIN, in giving judgment, said it might be said at once that there could be no question of ratification or adoption in this case, the necessary elements not being present. The sole question was whether the respondents were entitled to set up an estoppel. Mere silence would not amount to a representation, but when there was a duty to disclose, deliberate silence might amount to a representation. Here the appellant's silence was deliberate and intended to leave the respondents in ignorance of the true facts so that no action might be taken against the appellant's wife. That seemed to him (his lordship) to amount to a representation that the cheques were in order and that there were present all the elements essential to estoppel. Further he did not think that it was any answer to say that if the respondents had not been negligent the detriment would not have occurred. It was the duty of the appellant to remove the condition of ignorance in which he knew the respondents were. What difference could it make that the condition of ignorance was primarily induced by the respondents' own negligence. In his judgment it could make none. The appeal failed and should be dismissed with costs.

LORDS ATKIN, WARRINGTON OF CLYFFE, THANKERTON and MACMILLAN concurred.

COUNSEL: *Cyril Atkinson*, K.C., *J. C. Jolly* and *R. A. Eastwood*; *T. Eastham*, K.C., and *Rice Jones*.

SOLICITORS: *Indermaur & Brown*, for *Woosnam & Co.*, Blackpool; *Haslewood, Hare & Co.*, for *A. Kidd Whitaker*, Blackpool.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Sykes *v.* **Williams.** Eve, J. 13th July.

LANDLORD AND TENANT—PERPETUAL YEARLY RENT-CHARGE—RECOVERY OF POSSESSION—POWER OF RE-ENTRY—STATUTE OF LIMITATIONS—RELIEF AGAINST FORFEITURE.

This was an action commenced in the Manchester District Registry and raised the question as to the recovery of a perpetual yearly rent-charge.

By a conveyance, dated 7th June, 1912, the plaintiff, H. R. Sykes, granted a plot of land at Edgeley, near Stockport, to the defendant, Edward Williams and Hugh Williams, to the use that the plaintiff should secure a perpetual yearly rent-charge of £25 issuing out of the land conveyed and the buildings to be erected on it,

payable half-yearly in March and September. The grantees covenanted to pay the rent-charge and the conveyance also contained a power of re-entry arising on the rent-charge becoming a year in arrear or on any breach by the grantees of any of the covenants, the power to be exercisable at any time during the life or lives of the issue then living of Queen Victoria and the survivors and survivor of them, and twenty-one years from the death of such survivor. Hugh Williams died in November, 1924, and letters of administration to his estate were granted to the defendant and Thomas Williams in September, 1926. Four houses had since the date of the conveyance been erected on the land. No part of the rent-charge had ever been paid. The defendant contended that the power of re-entry was annexed to the rent-charge and as recovery of the rent was statute-barred, the right to exercise the power of re-entry was also gone. The plaintiff now claimed to recover the land and to be entitled to exercise the power of re-entry.

EVE, J., giving judgment, said that, although the recovery of the rent-charge was statute-barred, the power of re-entry was not so barred. In his opinion the plaintiff was entitled to the relief he claimed in accordance with the decision in *Barratt* v. *Richardson* [1930] 1 K.B. 686, where it was held that the right to recover possession was not barred by the Real Property Limitation Act, 1874. It was argued that the power of re-entry was so annexed to the rent-charge as to be destroyed when the right to recover was statute-barred, but there was no authority for that proposition. Relief from forfeiture would be granted on terms.

COUNSEL: *Henry Johnston; J. M. Easton.*

SOLICITORS: *J. A. K. Ferns*, Stockport; *Grover, Smith and Moss*, Manchester, for *Brooks, Davies & Co.*, Stockport.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Cousins *v.* Sun Life Assurance Society.

Eve, J. 15th July.

INSURANCE—LIFE POLICY—HUSBAND INSURED FOR WIFE'S BENEFIT—DEATH OF WIFE BEFORE HUSBAND—CLAIM BY WIFE'S EXECUTORS.

This action raised a question of considerable importance to life assurance companies and policy-holders. In April, 1911, and October, 1912, the plaintiff, Stanley Cousins, effected with the defendant society two policies of assurance on his own life, whereby the society in consideration of certain premiums during the plaintiff's lifetime agreed on the death of the plaintiff to pay two sums of £15,000 and £3,000. Each policy contained a declaration that it was issued for the benefit of Lilian Cousins, the wife of the life insured under the provisions of the Married Women's Property Act, 1882, and each policy contained a statement to the effect that the sum assured would acquire a surrender value as soon as three full years' premium had been paid. Lilian Cousins died on 3rd October, 1931, having by her will duly appointed the defendants, W. H. Court and C. H. Court, to be her executors, and they proved the will. The plaintiff claimed a declaration that he was entitled to surrender the policies to the society and be paid the surrender value thereof. The defendants contended that the beneficial interest in the policies was vested in them, the executors of Mrs. Cousins.

EVE, J., in delivering judgment, said that by the Married Women's Property Act, 1882, s. 11, a policy of assurance effected by a man on his own life and expressed to be for the benefit of his wife or children created a trust and the moneys payable under such policy were not to form part of the estate of the assured or be subject to his debts. According to the Act, therefore, the policies in this case created a trust in favour of Mrs. Cousins under which she would become entitled to the policy moneys in the event of her surviving the assured. Her interest was only contingent and on her death in his lifetime the trust failed and the policies and the moneys payable thereunder became the property of the assured. That conclusion, which entitled the plaintiff to the declaration he claimed, was consistent with all the authorities from *Cleaver* v. *Mutual Reserve Fund Life Association* [1892] 1 Q.B. 147, to *In re Collier* [1930] 2 Ch. 37, with the possible exception of the Irish case of *Prescott* v. *Prescott* (1906), 1 Ir. R. 155, which was distinguishable in that the moneys assured vested absolutely. There would therefore be judgment for the plaintiff.

COUNSEL: *Gilbert Beyfus; E. J. Macgillivray; A. P. Vanneck.*

SOLICITORS: *W. H. Court & Son; Linklaters & Paines; G. C. T. Money.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Rex *v.* Southampton Justices: *Ex parte* Tweedie.

Lord Hewart, C.J., Avory and Humphreys, JJ. 21st July.

MOTOR CAR—CHARGE OF DANGEROUS DRIVING—CONVICTION OF DRIVING WITHOUT DUE CARE AND ATTENTION—NO CONSENT TO REDUCTION OF CHARGE—CONVICTION BAD.

A summons was issued on the 22nd February, 1932, against Doris Tweedie, charging her that on the 16th February, 1932, at Southampton-road, North Stoneham, she unlawfully drove a motor car in a manner which was dangerous to the public, having regard to all the circumstances of the case, contrary to s. 11 (1) of the Road Traffic Act, 1930. Before the court of summary jurisdiction a solicitor, on behalf of Miss Tweedie, who did not attend personally, pleaded not guilty. At the close of the evidence for the prosecution the justices found that the facts did not justify a conviction for dangerous driving, but they convicted Miss Tweedie of careless driving and fined her £2 and witnesses' expenses, 10s. A rule *nisi* for *certiorari* was granted on the 8th April at the instance of Miss Tweedie to bring up and quash the order of the justices on the grounds that:—(1) The justices were wrong in law in reducing the charge from driving in a manner dangerous to the public under s. 11 of the Act, to driving without due care and attention under s. 12, there being no alternative summons before the court. (2) The justices were wrong in law in not dismissing the summons after deciding that the specific offence had not been proved.

Lord HEWART, C.J., said that he thought that the case was quite clear. There was not sufficient evidence of consent to the minor charge, and the rule must be made absolute, with costs against the police.

AVORY and HUMPHREYS, JJ., agreed.

COUNSEL: *Scott Henderson* showed cause for the police; *Laurence Vine* supported the rule.

SOLICITORS: *Robbins, Olivey & Lake*, for *F. V. Barber*, Winchester; *Amery-Parkes & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.—Part II.

Societies.

The Law Society.

PRELIMINARY EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 6th and 7th July, 1932 :—

Kenneth Andrews, Montague Eric Appleby, George Alexander Arbuthnot, John Alfred Askew, John Hollinshead Barker, Stephen Charles Barker, James Arthur Barnett, Lionel Cecil Bartram, William Mackenzie Bell, Gordon Herbert Brown, Peter Hammet Brown, Charles Buckley, Moss Woolfe Burns, George Cass, John Stanley Clarkson, Lionel Cohen, Charles Waddington Coplans, Joseph Francis Coules, Leonards John Coxwell, Harold Curwen, Thomas Mason Dawson, Fred Dewhurst, Leslie Neville Dodd, James Arthur Chesterfield Downing, Edmund Curtis Durham, James Thomas Eccles, John Lawrence Ralph Fort, Edward Herbert Frank, John Collett Green, Roy Alexander Hannah, Clement Hanson, Edgar Albert Harding, Jesse Lionel Harrison, Michael Babington Charles Hawkins, Stanley Reginald Charles Hayes, David Herman, Arnold Hertzberg, Charles James Hilling, Joseph Cowderoy Hodgson, George Frederic Cameron Homewood, Alastair Alfred Parfitt Hunt, Philip Malcolm Hunter, Thomas Forster Imeson, George Leslie Jaye, Edward Lancaster, Percy Layzell, John Warren Lea, Lawrence Ernest Long, Richard Charles Donald Makins, Reginald Marcy, Michael Hugh Minchin, George Henry Guy Monkhouse, Harry Kenneth Muff, Gilbert Henry Francis Mumford, Albert Dilnot Brian Narizzano, Dennis Newman, Peter John Newton, James Farrer Nowell, Terence Brandram Hastings Otway, William Edward Pack, Wilfred John Pedley, Harold Walter Pegden, Walter Norman Perry, Richard Francis Joseph Pollock, Herman Fitzroy Peter Rabagliati, John Edward Rhodes, Clement Eustace Roberts, David Roberts, Graham Chatfeild Roberts, Stanley Derek Russell, William Francis Ryan, William John Savage, John Gordon Shergold, Thomas Herbert Sills, Frederick Brewerton Stevens, John Douglas Stewart, Frank John Stimpson, John Maurice Stratton, Leslie Joseph Stroud, Helder Patrick Dixon Sykes, Michael Barry Sykes, Raymond John Tearle, William Hilliard Beynon Thomas, Francis William Tonge, John Ullock, Cecil George Vivian, George Edward Standring Webster, Conrad Max White, Geoffrey Houldsworth Wise, Peter Watson Wood, George Francis Woods.

No. of Candidates, 191. Passed, 91.

The Manchester Law Society.

The ninety-third annual meeting of the Society was held at the Law Library, Kennedy Street, on 19th July, Mr. Arthur R. Moon, the retiring President, being in the chair.

The report presented at the meeting covered a large number of matters which had engaged the active attention of the Council during the past year. The present membership of the Society was 391, of whom over 300 were members of The Law Society. While this was a satisfactory proportion, the Council hoped that it might be still further increased, as it was in the interests of the profession generally that every member should be a member also of The Law Society. Special reference was made in the Report to the long and valuable services of two past Presidents of the Society, Mr. R. S. Milford and Mr. R. W. Rylands, both of whom had expressed a wish to retire from the Council, of which they had been members since 1906 and 1910 respectively. Appreciation was also recorded of the excellent work done by the Poor Persons Committee, and in particular by Mr. K. T. S. Dockray, its secretary.

On the question of the proposed reduction in the statutory increase on charges, the Report indicated that the Council had given careful consideration to the matter, and had unanimously approved and supported the action of the Council of The Law Society in meeting the Lord Chancellor's appeal to the profession to accept some sacrifice in view of the present financial difficulties of the country.

The retiring President in his address referred to the active part taken by the Society in the preliminary enquiries which had given rise to the New Procedure Rules, and to the fact that many of the recommendations contained in the Society's Report on the cost of litigation had been adopted. He emphasized the necessity for the sympathetic co-operation of all solicitors, and also of members of the Bar, if the hoped-for results of the working of the rules in Manchester was to be ensured.

On the question of internal discipline of the profession, Mr. Moon said it was satisfactory to know that The Law Society was pledged to introduce appropriate legislation during the coming year. He hoped that a bold and courageous measure would be introduced which would provide for adequate control of professional conduct and for compulsory membership of The Law Society. He would personally greatly prefer to be subject to the strictest discipline of the body composed of, and controlling the profession, than to irritating restrictions imposed by independent legislation.

He endorsed the views expressed in the Report on the question of reduction of charges. He had, as the provincial nominee, attended the meeting of the Solicitors Remuneration Committee at which the form of order to give effect to the proposal had been approved, and had been impressed by the sympathetic attitude of the Lord Chancellor.

He desired also to call particular attention to the work of the Poor Persons Committee, and hoped that, in spite of comments at a recent congress and the statement of an eminent judge that the Poor Persons Rules were a gift by the Bar, the patience and time voluntarily expended by the Committee and by solicitors on the rota, in addition to barristers, would be increasingly recognised by the public.

It was a satisfactory feature of the Report that so many scholarships and prizes had been earned. It was of the greatest importance that the training of articled clerks should, so far as possible, ensure not only that the right men should enter the profession, but that they should bring to its exercise a proper and responsible mental attitude.

In conclusion he thanked the members of the Council for their loyal support throughout his year of office, which had made him conscious of the great privilege of service.

The following officers were elected for the ensuing year: President, Mr. J. W. Robson; Vice-President, Mr. K. T. S. Dockray; Hon. Treasurer, Mr. W. E. M. Mainprice; Hon. Secretary, Mr. A. H. Goulty.

The meeting terminated with a hearty vote of thanks to the retiring President for his services in the past year.

University College.

The following awards have been made in the Faculty of Laws at University College: Hurst Bequest Essay Prizes, W. H. E. James (first), H. J. Morrish (second).

Rules and Orders.

THE RULES OF THE SUPREME COURT (No. 2), 1932.
DATED JULY 11, 1932.

We, the Rule Committee of the Supreme Court, hereby make the following Rules :—

1. The following amendments shall be made in Order XXXVIII A :—

(*a*) The following Rule shall be substituted for Rule 6 which Rule is hereby revoked :—

"6. Where the defendant has set up a counter-claim the plaintiff shall, within seven days of the delivery thereof, deliver a reply."

(*b*) In paragraph (1) of Rule 7 the word "four" shall be substituted for the word "seven"; and the words "or of the reply (if any)" shall be omitted.

(*c*) In Rule 7 the following paragraph shall be added as paragraph (3) :—

"(3) If, within twenty-eight days from the date when appearance has been entered no summons for directions has been issued it shall be the duty of the plaintiff's solicitor to inform the Court of the reason why the provisions of this Order are not being complied with."

(*d*) In paragraph (5) of Rule 8 after the words "leave of the Judge" there shall be inserted the words "or of the Court of Appeal."

(*e*) In paragraph (3) of Rule 13 after the words "unless the Judge" there shall be inserted the words "or the Court of Appeal."

(*f*) In Rule 14 after the words "unless the Judge" there shall be inserted the words "or the Court of Appeal."

2.—(*a*) At the end of the heading to Order LV B of the Rules of the Supreme Court, 1883,(*) there shall be added as an additional part of the heading the expression "VI. Housing Act, 1930." (†)

(*b*) At the end of Order LV B there shall be added as an additional part of that Order the following Rules :—

"*VI. Housing Act*, 1930.

71. An application under section eleven of the Act shall be made by an originating notice of motion to a judge of the High Court selected for the purpose by the Lord Chancellor.

72. The evidence upon the hearing of the application shall be by affidavit except in so far as the court at the hearing may direct oral evidence to be given.

73. The notice of motion shall state the grounds for the application, and the date mentioned in the notice for the hearing of the application shall be not less than fourteen days after the service of the notice.

(*) S.R. & O. Rev. 1904, XII, Supreme Court, E., pp. 54–417 (reprinted as amended to Dec. 31, 1903).
(†) 20-1 G. 5. c. 39.

74. The notice of motion shall be served before the expiration of six weeks after the publication of the notice of confirmation of the order to which the application relates on the local authority by whom the order was made and on the Minister of Health and shall be entered at the Crown Office within the same period.

75. The ordinary practice and rules of the King's Bench Division shall apply so far as they are applicable, and are not inconsistent with the provisions of the Act, or of the Rules contained in this part of this Order.

76. The Rules contained in this Part of this Order supersede the Rules set forth in Part I of the Fourth Schedule to the Act.

77. In this Part of this Order "the Act" means the Housing Act, 1930."

3. The following Rule shall be inserted in Order LXIV after Rule 4 and shall stand as Rule 4A :—

"4A.—(1) In causes intended to be tried in the New Procedure List under Order XXXVIII A summonses may be issued and pleadings may be amended, delivered, or filed in the Long Vacation on and after the 1st day of October in any year, but pleadings, in such causes, shall not be amended, delivered, or filed during any other part of such Vacation, unless by direction of one of the Judges nominated under Order XXXVIII A, Rule 2 (4).

(2) Any summons issued under this Rule may be heard by one of the Judges so nominated, or in the absence of both of such Judges shall, if necessary, be heard by the Vacation Judge."

4. Rule 10 of Order LXV shall be designated and stand as paragraph (1) of Rule 10 of that Order.

5. The following paragraphs shall be substituted for Rules 10A and 10B of Order LXV (which are hereby revoked) and shall stand as paragraphs (2) (3) (4) and (5) of Rule 10 of that Order :—

"(2) The total in any bill of costs of the fees prescribed by this Order (as distinct from payments) shall in respect of business done in any cause or matter in the Supreme Court after the 31st day of December, 1917, be increased as follows, that is to say,

(*a*) if done before the 1st day of September, 1919, by 20 per centum ;

(*b*) if done after the 31st day of August, 1919, and before the 12th day of October, 1932, by 33⅓ per centum ;

(*c*) if done after the 11th day of October, 1932, by 25 per centum ;

and any such increase shall be allowed upon any taxation of costs in respect of any such business as well between party and party as between solicitor and client, and in taxations under or pursuant to the Solicitors Act, 1843.(‡)

(3) In respect of any bill of costs which was delivered to the client sought to be charged therewith or to the person chargeable therewith or any bill of costs which was taxed and certified or allowed before the 28th day of May, 1918, paragraph (2) of this Rule shall not apply ; and in respect of any bill so delivered or taxed and certified or allowed after the 31st day of August, 1919, but before the 1st day of May, 1920, all business included therein shall for the purpose of paragraph (2) of this Rule be deemed to have been done before the 1st day of September, 1919.

(4) Paragraph (2) of this Rule shall not—

(*a*) apply to the remuneration prescribed by or under the Solicitors Remuneration Act, 1881,(§) or

(*b*) affect the question whether a bill of costs when taxed is or is not less by one-sixth part than the bill delivered, sent or left, or

(*c*) affect the power to direct payment of a sum in lieu of costs under Order LXV, Rule 23, or the power to allow a fixed sum for costs under Order LXV, Rule 27 (38), or a gross sum under Order LXV, Rule 27 (38A).

(5) Paragraphs (2) (3) and (4) of this Rule shall apply to all references to arbitration and to all proceedings on the Crown side and to all proceedings assigned to the Crown Office Department and to all business done after 31st day of August, 1919, in all criminal proceedings in the Supreme Court, and, so far as applicable thereto, to all divorce and matrimonial causes in the Supreme Court."

6. These Rules may be cited as the Rules of the Supreme Court (No. 2), 1932, and shall come into operation on the 1st day of August, 1932, and the Rules of the Supreme Court, 1883, shall have effect as amended by these Rules.

Dated the 11th day of July, 1932.

Sankey, C.	*Rigby Swift*, J.
Hewart, C.J.	*Maugham*, J.
Hanworth, M.R.	*D. B. Somervell.*
Merrivale, P.	*A. W. Cockburn.*
P. Ogden Lawrence, L.J.	*C. H. Morton.*
A. A. Roche, J.	*Roger Gregory.*

(‡) 6–7 V. c. 73. (§) 44–5 V. c. 44.

Long Vacation, 1932.

HIGH COURT OF JUSTICE.

NOTICE.

During the Vacation, up to and including Monday, 5th September, all applications "which may require to be immediately or promptly heard," are to be made to The Honourable Mr. Justice GODDARD.

COURT BUSINESS.—The Honourable Mr. Justice GODDARD will, until further notice, sit in King's Bench Court VIII, Royal Courts of Justice, at half-past 10 on Wednesday in each week, commencing on Wednesday, 3rd August, for the purpose of hearing such applications of the above nature, as, according to the practice in the Chancery Division, are usually heard in Court.

PAPERS FOR USE IN COURT—CHANCERY DIVISION.—The following Papers for the Vacation Judge are required to be left with the Cause Clerk in attendance at the Chancery Registrar's Office, Room 136, Royal Courts of Justice, on or before 1 o'clock, two days previous to the day on which the application to the Judge is intended to be made :—

1.—Counsel's certificate of urgency or note of special leave granted by the Judge.

2.—Two copies of notice of motion, one bearing a 5s. impressed stamp.

3.—Two copies of writ and two copies of pleadings (if any).

4.—Office copy affidavits in support, and also affidavits in answer (if any).

No Case will be placed in the Judge's Paper unless leave has been previously obtained or a Certificate of Counsel that the Case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

N.B.—Solicitors are requested when the application has been disposed of, to apply at once to the Judge's Clerk in Court for the return of their papers.

URGENT MATTERS WHEN THE JUDGE IS NOT PRESENT IN COURT OR CHAMBERS.—Application may be made, *in any case of urgency*, to the Judge personally (if necessary), or by post or rail, prepaid, accompanied by the brief of Counsel, office copies of the affidavits in support of the application, and also by a Minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows :—"Chancery Official Letter : To the Registrar in Vacation, Chancery Registrar's Office, Royal Courts of Justice, London, W.C.2."

The address of the Vacation Judge can be obtained on application at Room 136, Royal Courts of Justice.

CHANCERY CHAMBER BUSINESS.—The Chancery Chambers will be open for Vacation business on Tuesday, Wednesday, Thursday and Friday in each week, from 10 to 2 o'clock.

KING'S BENCH CHAMBER BUSINESS.—The Hon. Mr. Justice GODDARD will sit for the disposal of King's Bench business in Judge's Chambers on Thursday the 4th August at half-past ten, and subsequently on Tuesday in each week at 10.30.

PROBATE AND DIVORCE.—Summonses will be heard by the Registrar, at the Principal Probate Registry, Somerset House, every day during the Vacation at 11.15 (Saturdays excepted).

Motions will be heard by the Registrar on Wednesdays, the 10th and 24th August, and the 7th and 21st September, at the Principal Probate Registry at 12.15.

Decrees will be made absolute on each Wednesday during the Vacation.

All Papers for making Decrees absolute are to be left at the Contentious Department, Somerset House, on the preceding Thursday, or before 2 o'clock on the preceding Friday. Papers for Motions may be lodged at any time before 2 o'clock on the preceding Friday.

The Offices of the Probate and Divorce Registries will be opened at 10 a.m. and closed at 4 p.m., except on Saturdays, when the Offices will be opened at 10 a.m. and closed at 1 p.m.

Royal Courts of Justice,
Room 136.
July, 1932.

DISTRICT PROBATE REGISTRAR AT NORWICH.

The President of the Probate, Divorce and Admiralty Division of the High Court of Justice has authorised the transfer of Mr. B. S. Walker, District Probate Registrar at Manchester, to the post of District Probate Registrar at Norwich and Peterborough, vacant as from the end of July by the resignation of Mr. C. H. Wilkinson.

Legal Notes and News.

Honours and Appointments.

Mr. IDWAL WILLIAMS, of Flint Mountain, Clerk to the Flint Justices, has been appointed Deputy Clerk to the Flintshire County Council. Mr. Williams was admitted a solicitor in 1920.

Mr. HAROLD AYREY, Deputy Town Clerk of Swansea, has been appointed Town Clerk of South Shields. Mr. Ayrey was admitted a solicitor in 1922.

Mr. W. H. ALLEN THORNE, solicitor, of Minehead, has been appointed Clerk to the Minehead Urban Council in succession to his father, Mr. W. H. A. Thorne, who has retired. The younger Mr. Thorne was admitted a solicitor in 1920.

Professional Announcement.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

Wills and Bequests.

Mr. Arthur Carpmael, solicitor, of Albert Bridge-road, S.W., and of Copthall-buildings, E.C., left £27,047, with net personalty £24,475.

Mr. Gerald Venables Kyrke, solicitor, of Chard, Somerset, left £11,161, with net personalty £5,940.

NEW PROCEDURE RULES.

Attention is drawn to the following notices which have been issued by direction of the Judges appointed to take the New Procedure List:—

NEW PROCEDURE LIST.

NOTICE.

LONG VACATION, 1932.

On and after Monday, the 3rd day of October, 1932, The Hon. Mr. Justice Swift will sit daily at 10.30 (8th October and 12th excepted) in King's Bench Court I (as in Chambers) to hear summonses and applications in this list.

Mr. Justice Swift and Mr. Justice Macnaghten have directed that summonses may be issued at any time during the Long Vacation (11 a.m. to 2 p.m.) and made returnable at the first available date.

SPECIALLY INDORSED WRITS.

Solicitors are reminded that—

There is no advantage in certifying as fit for new procedure a specially indorsed writ—

(1) Where the defendant is not likely to enter appearance, or to deliver a defence, as judgment by default can be signed in these cases under the ordinary rules;

(2) Where a summons under Ord. XIV can be issued, as in such cases summary judgment may be ordered, or if leave to defend given the action can be transferred to the New Procedure List under Ord. XIV, r. 8 (*c*).

NEW PROCEDURE LIST.

In an action in the New Procedure List, before Mr. Justice Macnaghten, last week, in which the defendant did not appear, his Lordship said that the action was for a liquidated sum and the writ of summons might at the option of the plaintiff have been specially indorsed under Order III, r. 6, and application made under Order XIV for liberty to enter final judgment. In such cases it was better for a plaintiff to proceed in that way because a defendant might not be willing to swear on affidavit what he felt he could state in a pleading. If the affidavit disclosed a defence, the Master could then transfer the action to the New Procedure List.

JURIES AND NEW PROCEDURE.

Mr. Justice Macnaghten made some observations on Wednesday last as to the right to trial by jury of actions in the New Procedure List arising out of street accidents in which one party wanted a jury and the other did not. He said that a distinction must be drawn between cases where the issue was entirely one of negligence and those where there was an issue both of negligence and as to the quantum of damages. In the former class, it was better to have a tribunal with experience in dealing with such matters, and it was inadvisable to direct trial by jury. In cases, however, where the amount of damages had to be assessed, he proposed to order trial with a jury if either party asked for it.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 11th August, 1932.

	Middle Price 27 July 1932.	Flat Interest Yield.	†Approximate Yield with redemption
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	107	3 14 9	3 11 6
Consols 2½%	73½	3 8 0	—
War Loan 5% 1929-47 Assented	100¾xb	3 10 0	—
War Loan 4½% 1925-45	102½	4 7 10	—
Funding 4% Loan 1960-90	108¾	3 13 7	3 10 2
Victory 4% Loan (Available for Estate Duty at par) Average life 31 years	107	3 14 9	3 12 5
Conversion 5% Loan 1944-64	115	4 6 11	3 9 1
Conversion 4½% Loan 1940-44	109	4 2 7	3 4 2
Conversion 3½% Loan 1961 or after	100½	3 9 8	3 9 5
Local Loans 3% Stock 1912 or after	86	3 9 9	—
Bank Stock	314	3 16 5	—
India 4½% 1950-55	104	4 6 6	4 3 8
India 3½% 1931 or after	83	4 4 4	—
India 3% 1948 or after	71	4 4 6	—
Sudan 4½% 1939-73	106½	4 4 6	3 7 5
Sudan 4% 1974 Redeemable in part after 1950	106	3 15 6	3 10 11
Transvaal Government 3% Guaranteed 1923-53 Average life 13 years	100	3 0 0	3 0 0
Colonial Securities.			
Canada 3% 1938	95¼	3 2 10	3 17 0
*Cape of Good Hope 4% 1916-36	101	3 19 2	—
Cape of Good Hope 3½% 1929-49	95¼	3 13 4	3 17 3
Ceylon 5% 1960-70	108	4 12 7	4 9 10
*Commonwealth of Australia 5% 1945-75	99½	5 0 6	5 0 7
Gold Coast 4½% 1956	106	4 4 11	4 1 10
*Jamaica 4½% 1941-71	104	4 6 6	3 18 9
*Natal 4% 1937	101	3 19 2	3 15 1
New South Wales 4½% 1935-45	93½	4 16 3	5 4 0
*New South Wales 5% 1945-65	98½	5 1 6	5 1 10
*New Zealand 4½% 1945	103½	4 6 11	4 2 11
*New Zealand 5% 1946	106¼	4 13 11	4 6 9
Nigeria 5% 1950-60	111	4 10 1	4 2 6
*Queensland 5% 1940-60	100½	4 19 6	4 18 5
*South Africa 5% 1945-75	106½	4 13 11	4 6 9
*South Australia 5% 1945-75	100½	4 19 6	4 18 11
*Tasmania 5% 1945-75	99½	5 0 6	5 0 7
*Victoria 5% 1945-75	98½	5 1 6	5 1 9
*West Australia 5% 1945-75	100½	4 19 6	4 18 11
Corporation Stocks.			
Birmingham 3% 1947 or after	84	3 11 5	—
*Birmingham 5% 1946-56	113	4 8 6	3 15 8
*Cardiff 5% 1945-65	109½	4 11 4	4 0 11
Croydon 3% 1940-60	92½	3 4 10	3 8 4
*Hastings 5% 1947-67	114	4 7 9	3 15 2
Hull 3½% 1925-55	91	3 16 11	4 2 4
Liverpool 3½% Redeemable by agreement with holders or by purchase	95½	3 13 4	—
London County 2½% Consolidated Stock after 1920 at option of Corporation	71	3 10 5	—
London County 3% Consolidated Stock after 1920 at option of Corporation	85	3 10 7	—
Manchester 3% 1941 or after	82½	3 12 9	—
Metropolitan Water Board 3% "A" 1963-2003	85½	3 10 2	3 11 3
Do. do. 3% "B" 1934-2003	87	3 9 0	3 10 0
Middlesex C.C. 3½% 1927-47	97	3 12 2	3 15 3
Do. do. 4½% 1950-70	110	4 1 10	3 14 6
Nottingham 3% Irredeemable	84	3 11 5	—
*Stockton 5% 1946-66	111	4 10 1	3 19 5
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	97	4 2 6	—
Gt. Western Rly. 5% Rent Charge	108½	4 12 2	—
Gt. Western Rly. 5% Preference	59½	8 8 0	—
L. Mid. & Scot. Rly. 4% Debenture	87½	4 11 5	—
L. Mid. & Scot. Rly. 4% Guaranteed	68xd	5 17 8	—
L. Mid. & Scot. Rly. 4% Preference	27xd	14 16 3	—
Southern Rly. 4% Debenture	93	4 6 0	—
Southern Rly. 5% Guaranteed	99½	5 0 6	—
Southern Rly. 5% Preference	49½	10 2 0	—
‡L. & N.E. Rly. 4% Debenture	79	5 1 3	—
‡L. & N.E. Rly. 4% 1st Guaranteed	53½	7 9 6	—
‡L. & N.E. Rly. 4% 1st Preference	17½	22 17 0	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

‡These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Company's Ordinary Stocks for the past year.